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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/768,546	01/30/2004	Cathy Johnson	551001-1010	6598

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EXAMINER

SOTELO, JESUS D

ART UNIT	PAPER NUMBER
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3617

DATE MAILED: 08/31/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/768,546

Applicant(s)

JOHNSON ET AL.

Examiner

Jesús D. Sotelo

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-10 is/are allowed.
- 6) ☒ Claim(s) 11-23 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 2/24/2004.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

1. Claims 1-23 are in the application.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 11-15 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Carter in view of McSorley.

Carter discloses a device for removably attaching to structure and for storing items comprising a support member 2 including at least one pocket member and a plurality of straps attached to the support member for removably attaching the storage device to a structure. McSorley discloses a similar storage device adapted for securing to a structure on a boat. McSorley teaches making the storage device from an acrylic material, or other material that would withstand a marine environment. In view of these disclosures, it would have been obvious to one skilled in the art to make the storage device of Carter from an acrylic material and to use it in any particular area, including a boat environment generally as taught by McSorley. The material used to make the storage device of Carter and the straps is deemed to have been an obvious matter of design choice considering the element to which the device would be exposed.

4. Claims 16 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Carter in view of McSorley, further in view of Barrett.

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Carter and McSorley use different elements to secure the storage bag to the desired structure.

Barrett discloses a storage device and teaches that the pocket area can be subdivided by stitching certain areas. Additionally, Barrett teaches the use of D rings in combination with straps for securing his storage device. In view of these disclosures, it would have been obvious to one skilled in the art to subdivide the pocket portion of the storage device of Carter by stitching a divider, generally as taught by Barrett. The use of D-Rings in lieu of the connectors used by Carter would have been obvious matters of engineering design choice.

5. Claims 19-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Biemiller in view of Barrett.

Biemiller discloses a storage device for removably attaching to a t-top on a boat including a frame comprising marine fabric; an access flap 40 and a plurality of straps for securing the storage device to the t-top. The straps are secured to the top of the storage device. To merely secure the straps to the bottom of the storage device would have been a matter of design choice to one of ordinary skill in the art. Although the arrangement in Biemiller shows the straps on top of the storage device, it is obvious that more support would be provided with the straps on the bottom of the storage device. The material used to make the storage device is deemed to have been an obvious matter of design choice consistent with the requirements of the environment in which the storage bag is used. Barrett teaches the use of D-Rings in combination with straps for securing the storage device. In view of these disclosures, it would have been obvious to one skilled in the art to substitute for the securing devices in Biemiller with D-rings and straps generally as taught by Barrett.

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Allowable Subject Matter

6. Claims 1-10 are allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jesús D. Sotelo whose telephone number is 703-308-2563. The examiner can normally be reached on Mon. - Fri. 6:00 AM -2:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Samuel J. Morano can be reached on 703-308-0230. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jesús D. Sotelo
Jesús D. Sotelo 8/26/04
Primary Examiner
Art Unit 3617
CPK 5-6D16 ☺

sotelo;jds
August 26, 2004